

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tileyah Williams	Team: Squad #3	CCRB Case #: 201910951	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 07/01/2019 1:24 PM	Location of Incident: [REDACTED]	Precinct: 109	18 Mo. SOL 1/1/2021	EO SOL 8/18/2021	
Date/Time CV Reported Tue, 12/24/2019 3:07 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/24/2019 3:07 PM		
Complainant/Victim	Type	Home Address			
[REDACTED]	[REDACTED]	[REDACTED]			
Subject Officer(s)	Shield	TaxID	Command		
1. POM Kyle Roach	26385	965464	109 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. POM George Braun	14877	956452	109 PCT		
Officer(s)	Allegation		Investigator Recommendation		
A.POM Kyle Roach	Force: Police Officer Kyle Roach used physical force against § 87(2)(b) [REDACTED]		[REDACTED]		

Case Summary

On December 24, 2019, § 87(2)(b) filed this complaint over the phone with the CCRB. This case was originally assigned to Investigator Michael Miskovski and was reassigned to Investigator Tileyah Williams.

On July 1, 2020, at approximately 12:45 p.m., Police Officer Stacey Byrnes and Police Officer Kyle Roach, both of the 109th Precinct, responded to a call at § 87(2)(b)'s apartment at § 87(2)(b) in Queens and arrested him for menacing in the third degree. While § 87(2)(b) was at the 109th Precinct stationhouse, he began to have a diabetic attack. Officers then called an ambulance and PO Byrnes and PO Roach escorted § 87(2)(b) to § 87(2)(b) in Queens at 1:30 p.m. While § 87(2)(b) was at the hospital, Police Officer George Braun of the 109th Precinct relieved PO Byrnes. At 4:00 p.m., after § 87(2)(b) received treatment, PO Braun and PO Roach escorted § 87(2)(b) to their marked vehicle to transport him to the stationhouse. As PO Roach and PO Braun escorted § 87(2)(b) to their vehicle, PO Roach allegedly repeatedly pushed § 87(2)(b) on his back while § 87(2)(b) was wearing leg shackles (**Allegation A: Force**, § 87(2)(g)).

The investigation obtained body-worn camera (BWC) footage from PO Roach and PO Braun.

Findings and Recommendations

Allegation (A) Force: Police Officer Kyle Roach used physical force against § 87(2)(b).

It is undisputed that PO Roach and PO Braun escorted § 87(2)(b) out of the rear-door of § 87(2)(b) to their marked vehicle, which was parked a short distance away from the door. It is disputed whether PO Roach used physical force while doing so.

§ 87(2)(b) testified that as he was walking to the police vehicle out of the hospital, § 87(2)(b) noticed that PO Roach became impatient and repeatedly told § 87(2)(b) to hurry. § 87(2)(b) then explained to PO Roach that he was handcuffed and leg-shackled and needed to walk slowly. He added that the police vehicle was only 20 feet away, so he did not need to rush. PO Roach then repeatedly used two hands against § 87(2)(b)'s shoulder blades and shoved him, which caused § 87(2)(b) to stumble slightly although he did not fall and was not injured (**01 Board Review**).

PO Roach testified that after § 87(2)(b) had received his treatment at the hospital, he placed handcuffs and leg shackles on § 87(2)(b) as per his instructions for hospitalized patients. § 87(2)(b) then began to walk slowly toward the hospital exit as PO Roach followed him on his back-left side, less than an arm length away. § 87(2)(b) did not have any trouble moving but he did trip on the front of his flip flops as he walked through the rear sliding door of the emergency room. As he tripped, PO Roach grabbed § 87(2)(b)'s left arm and pulled him back. § 87(2)(b) then told PO

Roach that he had pushed him. They were approximately one car length away from the police vehicle when the trip occurred. It took them approximately 40 seconds to get from the rear sliding door of the hospital to the police vehicle. As they walked to the police vehicle, § 87(2)(b) continued to complain that PO Roach pushed him. PO Roach denied pushing § 87(2)(b) near the shoulder blades, telling him, “You need to hurry up,” or making any other contact with § 87(2)(b) beside grabbing his elbow after § 87(2)(b) tripped. PO Roach stated that he activated his BWC after he exited the hospital as he was not allowed to record inside of the hospital **(02 Board Review)**.

PO Braun was on medical leave since February 25, 2020 and could not be interviewed by the CCRB as his medical leave was indefinite. On March 5, 2020, the 109th Precinct Roll Call informed Inv Miskovski that PO Braun was on an indefinite sick leave and that did not have a scheduled return date **(03 Board Review)**. On March 6, 2020, Inv. Miskovski obtained permission to interview PO Braun from his medical district. On March 17, 2020, Inv. Miskovski scheduled PO Braun for an interview. On March 13, 2020, the medical district reversed their permission for PO Braun to be interviewed **(04 Board Review)**. From April 13, 2020 to August 4, 2020, the agency was not interviewing officers due to the public health crisis. The investigator attempted to schedule PO Braun for an interview but as of August 26, 2020, PO Braun was still on an indefinite medical leave **(05 Board Review)**.

The investigation received negative results for the Threat Resistance and Injury Report and Medical Treatment of Prisoner Report prepared for § 87(2)(b) **(06 Board Review)**.

PO Roach’s BWC video partially displays the interaction between PO Roach and § 87(2)(b) after they had already exited the hospital. The video begins with PO Roach and § 87(2)(b) being approximately one foot away from the police vehicle. PO Roach can be seen guiding § 87(2)(b) into the police vehicle by holding his left elbow and as he is doing so, § 87(2)(b) says that PO Roach pushed him, although these actions are not captured on the video **(06 Board Review)**. PO Braun’s BWC began after they had arrived at the stationhouse and it did not capture the interaction between § 87(2)(b) and PO Roach as they left the hospital **(07 Board Review)**. The investigation was unable to gather video surveillance from § 87(2)(b) as it had expired **(08 Board Review)**.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to one other CCRB complaint and has been named a victim in one allegation. Case number 201607638 involved an allegation of a threat of arrest and was closed as Complainant Uncooperative **(09 Board Review)**.

- PO Roach has been a member of service for two years and this is the first complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to the New York State Office of Court Administration, § 87(2)(b) does not have a history of criminal convictions in New York City (**10 Board Review**).
- A FOIL request for a Notice of Claim was filed with the NYC Office of the Comptroller on October 26, 2020 and will be added to the case file upon receipt.

Squad No.: 3

Investigator: Tileyah Williams Investigator Tileyah Williams 10/26/2020
Signature Print Title & Name Date

Squad Leader: _____

Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____